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REFERENCE TITLE: fees for services; budget reconciliation

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

## **HB 2736**

Introduced by  
Representatives Pierce, Pearce, Tully, Weiers J: Mason, Robson (with  
permission of committee on Rules)

AN ACT

AMENDING SECTIONS 35-142, 41-541, 41-542, 41-545 AND 41-823, ARIZONA REVISED  
STATUTES; RELATING TO STATE FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-142, Arizona Revised Statutes, is amended to  
3 read:

4 35-142. Monies kept in funds separate from state general fund:  
5 receipt and withdrawal

6 A. All monies received for and belonging to the state shall be  
7 deposited in the state treasury and credited to the state general fund except  
8 the following, which shall be placed and retained in separate funds:

9 1. The unexpendable principal of monies received from federal land  
10 grants shall be placed in separate funds and the account of each such  
11 separate fund shall bear a title indicating the source and the institution or  
12 purpose to which such fund belongs.

13 2. The interest, rentals and other expendable money received as income  
14 from federal land grants shall be placed in separate accounts, each account  
15 bearing a title indicating the source and the institution or purpose to which  
16 the fund belongs. Such expendable monies shall be expended only as  
17 authorized, regulated and controlled by the general appropriation act or  
18 other act of the legislature.

19 3. All private or quasi-private monies authorized by law to be paid to  
20 or held by the state treasurer shall be placed in separate accounts, each  
21 account bearing a title indicating the source and purpose of such fund.

22 4. All monies legally pledged to retirement of building indebtedness  
23 or bonds issued by those institutions authorized to incur such indebtedness  
24 or to issue such bonds shall be placed in separate accounts.

25 5. Monies of a multi-county water conservation district authorized by  
26 law to be paid to or held by the state treasurer shall be placed in separate  
27 accounts, each account bearing a title indicating the source and purpose of  
28 such fund.

29 6. All monies collected by the Arizona game and fish department shall  
30 be deposited in a special fund known as the state game and fish protection  
31 fund for the use of the Arizona game and fish commission in carrying out the  
32 provisions of title 17.

33 7. All federal monies that are received by the department of economic  
34 security for family assistance benefits and medical eligibility as a result  
35 of efficiencies developed by the department of economic security and that  
36 would otherwise revert to the state general fund pursuant to section 35-190  
37 shall be retained for use by the department of economic security in  
38 accordance with the terms and conditions imposed by the federal funding  
39 source in an account or accounts established or authorized by the state  
40 treasurer.

41 8. Monies designated by law as special state funds shall not be  
42 considered a part of the general fund. Unless otherwise prescribed by law,  
43 the state treasurer shall be the custodian of all such funds.

1           9. All monies received and any accounts established and maintained by  
2 the director of the Arizona state retirement system or the fund manager of  
3 the public safety personnel retirement system, the corrections officer  
4 retirement plan and the elected officials' retirement plan.

5           B. No money shall be received or held by the state treasurer except as  
6 authorized by law, and in every instance the treasurer shall issue a receipt  
7 for money received and shall record the transaction in the statewide  
8 accounting system. No money shall be withdrawn from the treasury except upon  
9 the warrant or electronic funds transfer voucher of the department of  
10 administration.

11           C. All federal monies granted and paid to the state by the federal  
12 government shall be accounted for in the accounts or funds of the state in  
13 the necessary detail to meet federal and state accounting, budgetary and  
14 auditing requirements, and all appropriations for matching such federal  
15 monies shall be transferred from the general fund to such separate funds as  
16 needed, except as otherwise required by the federal government.

17           D. Nothing in this section requires the establishment of separate  
18 accounts or funds for such federal monies unless otherwise required by  
19 federal or state law. The department of administration has the authority to  
20 use the most efficient system of accounts and records, consistent with legal  
21 requirements and standard and necessary fiscal safeguards.

22           E. Nothing in this section precludes the creation by the department of  
23 administration of a clearing account or other acceptable accounting method to  
24 effect prompt payment of claims from an approved budget or appropriation.  
25 The department of administration shall report each account or fund  
26 established or cancelled to the directors of the joint legislative budget  
27 committee and the governor's office of strategic planning and budgeting.

28           F. Nothing in this section or any other section precludes the use of  
29 monies kept in funds separate from the general fund, the interest from which  
30 accrues to the general fund, for payment of claims against the general fund,  
31 provided sufficient monies remain available for payment of claims against  
32 such funds.

33           G. The department of administration may issue warrants for qualified  
34 expenditures of federal program monies before they are deposited in the state  
35 treasury. The receipt of federal monies shall be timed to coincide, as  
36 closely as administratively feasible, with the redemption of warrants by the  
37 state treasurer. The department of administration shall limit expenditures  
38 to the amount that has been made available for the use under the grant award  
39 by the federal government. The state agency initiating the expenditures is  
40 responsible for ensuring that expenditures qualify for coverage under the  
41 guidelines of the federal grant award.

42           H. The department of administration shall establish the policies and  
43 procedures for all state agencies for drawing federal monies. When the  
44 established method results in federal monies being held by this state, the  
45 department of administration may use the interest earned on the monies to pay  
46 the federal government for any related interest liability. If an interest

1 liability is incurred due to a state agency varying from the established  
2 policies and procedures, the department of administration shall charge the  
3 appropriate agency account or fund. Interest payment charges to agencies  
4 shall be reported by the department of administration to the joint  
5 legislative budget committee on or before March 1. Any federal interest  
6 liability owed to this state as a result of the delayed federal disbursements  
7 shall be used to offset this state's interest liability to the federal  
8 government. Any remaining interest earnings shall be deposited in the state  
9 general fund.

10 I. Any state agency or authorized agent of a state agency may accept  
11 credit cards pursuant to an agreement entered into by the state treasurer  
12 pursuant to section 35-315 for the payment of any amount due to that agency  
13 or agent or this state.

14 J. Except for the department of revenue for tax payments, agencies or  
15 authorized agents on behalf of state agencies that accept credit cards shall  
16 deduct any applicable discount fee and processing fee associated with the  
17 transaction amount before depositing the net amount in the appropriate state  
18 fund. No other reduction is permitted against the transaction amount. The  
19 net amount deposited in the appropriate state fund shall be considered as the  
20 full deposit required by law of monies received by the agency or the  
21 authorized agent. Payment of any applicable discount fee and processing fee  
22 shall be accounted for in the annual report submitted to the governor's  
23 office of strategic planning and budgeting in accordance with section  
24 41-1273. The transaction amount of any credit card transaction shall not be  
25 reduced by any discount fee or processing fee in an amount in excess of the  
26 merchant card settlement fees reflected in the state banking contract with  
27 the state treasurer's office.

28 K. Any state agency that contracts with an authorized agent for the  
29 electronic processing of transactions pursuant to title 41, chapter 23 may  
30 include a provision in the contract to allow the authorized agent to impose a  
31 convenience fee. If allowed, the convenience fee shall be charged to the  
32 cardholder in addition to the transaction amount, except for the following:

33 1. Except as provided in subsection R of this section, any permits,  
34 licenses or other authorizations needed to pursue a trade or occupation in  
35 this state.

36 2. Except as provided in subsection R of this section, any permits,  
37 licenses or other authorizations needed to establish, expand or operate a  
38 business in this state.

39 3. Except as provided in subsection R of this section, any permits,  
40 licenses or other authorizations needed to register a vehicle or license a  
41 driver in this state.

1 L. ~~Any~~ EACH state agency or its authorized agent shall:

2 1. Deduct the amount of the convenience fee before depositing the

3 transaction amount or the transaction amount reduced by the discount fee or

4 the processing fee, or both, into the appropriate state fund.

5 2. Not deduct any part of the convenience fee from the transaction

6 amount before depositing the net amount into the appropriate state fund.

7 3. Deduct the amount of the discount fee or the processing fee, or

8 both, from the transaction amount before depositing the net amount into the

9 appropriate state fund.

10 M. The net amount deposited in the appropriate state fund pursuant to

11 subsection K or subsection L of this section shall be considered as the full

12 deposit of monies that is required by law and that is received by the agency.

13 N. Notwithstanding section 35-142.01, convenience fees received by a

14 state agency or its authorized agent are limited to, and may be used to

15 offset, the costs imposed by the authorized agent in processing the

16 transactions.

17 O. When the percentage of electronic transactions first exceeds at

18 least thirty per cent of a state agency's total transactions, the state

19 agency shall perform a cost benefit report, including costs of convenience

20 fees, the amount of revenue generated and any realized cost savings. The

21 state agency shall submit the cost benefit report to the joint legislative

22 budget committee within six months after reaching the thirty per cent

23 threshold.

24 P. State agencies shall report the number of transactions, THE NUMBER

25 OF ELECTRONIC TRANSACTIONS, the total dollar amount of transactions

26 processed, the total dollar amount of any discount fee, THE TOTAL DOLLAR

27 AMOUNT OF ANY PROCESSING FEE and the total dollar amount of any convenience

28 fee charged, deducted or paid pursuant to subsections J and K of this section

29 ~~quarterly~~ ANNUALLY BY OCTOBER 1 to the governor, the government information

30 technology agency and the joint legislative budget committee.

31 Q. Nothing in this section or any other provision of law authorizes

32 any state agency, authorized agent of any state agency or budget unit to

33 establish a bank account for any government monies. All monies received by

34 or on behalf of this state shall be deposited with and in the custody of the

35 state treasurer or in an account that is authorized by the state treasurer

36 pursuant to this section. This subsection does not apply to monies received

37 and any accounts established and maintained by the director of the Arizona

38 state retirement system or the fund manager of the public safety personnel

39 retirement system, the corrections officer retirement plan and the elected

40 officials' retirement plan.

41 R. If a state agency provides an alternative method of payment, the

42 convenience fee may be charged to the cardholder in addition to the

43 transaction amount.

1           Sec. 2. Section 41-541, Arizona Revised Statutes, is amended to read:

2           41-541. Commission of Indian affairs; members; term;  
3                 compensation; officers; meetings; duties

4           A. The Arizona commission of Indian affairs shall consist of the  
5 governor, the superintendent of public instruction, the director of the  
6 department of health services, the director of the department of  
7 transportation, the attorney general, the director of the department of  
8 economic security, the director of the office of tourism and the director of  
9 the department of commerce, or their representatives, who shall be ex officio  
10 members, and nine members appointed by the governor, two at large who shall  
11 be non-Indian, and seven from among the Indian tribes. Each tribe or tribal  
12 council may submit the names of not to exceed two members of its tribe, and  
13 from the names so submitted, the governor shall appoint the seven Indian  
14 members.

15           B. The term of office of each appointive member shall be three years.  
16 The terms of three appointive members shall expire on the first Monday in  
17 January each year. Each member shall hold office until the member's  
18 successor is appointed and qualifies. Appointment to fill a vacancy caused  
19 otherwise than by expiration of a term shall be for the unexpired portion of  
20 the term.

21           C. Members of the commission serving by virtue of their office shall  
22 serve without compensation. Appointed members are eligible to receive  
23 compensation as determined pursuant to section 38-611 for each day of  
24 attendance at meetings.

25           D. The commission shall elect a chairman and a vice-chairman, who  
26 shall be appointive members, and adopt rules for the conduct of meetings. A  
27 record shall be kept of all proceedings and transactions.

28           E. The commission shall meet at least quarterly on the second Thursday  
29 of the first month of each quarter and may hold additional meetings upon the  
30 call of the chairman. A majority of the appointed members of the commission  
31 shall constitute a quorum for the transaction of business, but ex officio  
32 members may vote. Members who fail to attend three consecutive meetings  
33 shall be deemed to have resigned.

34           F. The commission may apply for, accept, receive and expend public and  
35 private gifts or grants of money or property upon such terms and conditions  
36 as may be imposed by the donor and for implementation of the commission's  
37 internal operations.

38           G. The commission may accept, receive and spend fees collected at the  
39 Arizona Indian town hall to defer expenses for the Arizona Indian town hall  
40 AND ANY OTHER OPERATING EXPENSES that exceed ~~the~~ ANY amount appropriated by  
41 the legislature ~~for the Arizona Indian town hall~~.

1           Sec. 3. Section 41-542, Arizona Revised Statutes, is amended to read:  
 2           41-542. Powers and duties; information; report; director;  
 3                     appointment; personnel; limitation; fees; directory

4           A. The commission ~~shall~~ MAY assist and support state and federal  
 5 agencies in assisting Indians and tribal councils in this state to develop  
 6 mutual goals, to design projects for achieving goals and to implement their  
 7 plans. The commission ~~shall~~ MAY also:

8           1. Assemble and make available facts needed by tribal, state and  
 9 federal agencies to work together effectively.

10          2. Assist this state in its responsibilities to Indians and tribes of  
 11 this state by making recommendations to the governor and the legislature.

12          3. Confer and coordinate with officials and agencies of other  
 13 governmental units and legislative committees regarding Indian needs and  
 14 goals.

15          4. Work for greater understanding and improved relationships between  
 16 Indians and non-Indians by creating an awareness of the legal, social and  
 17 economic needs of Indians in this state.

18          5. Promote increased participation by Indians in local and state  
 19 affairs.

20          6. Assist tribal groups in developing increasingly effective methods  
 21 of self-government.

22          7. Assist urban Indians. For the purposes of this paragraph, "urban  
 23 Indian" means an Indian who:

24           (a) Is a resident of this state.

25           (b) Resides in a county of this state with a population of more than  
 26 two hundred thousand persons.

27           (c) Does not reside on an Indian reservation in such a county.

28          B. State and local public officers and employees, on request, shall  
 29 furnish the commission with information that it may require for its purposes  
 30 except information which is not subject to disclosure pursuant to a provision  
 31 of law.

32          C. The commission shall make a written annual report, giving an  
 33 account of its proceedings, transactions, findings and recommendations, to  
 34 the governor and the legislature and may submit such recommendations to the  
 35 legislature in the form of proposed legislation.

36          D. The governor shall appoint an executive director of the commission  
 37 pursuant to section 38-211 who shall not be a member of the commission. The  
 38 director is eligible to receive compensation pursuant to section 38-611. The  
 39 commission may employ clerical, professional and technical personnel subject  
 40 to ~~appropriated~~ THE AVAILABILITY OF funds and shall prescribe their duties  
 41 and determine their compensation.

42          E. The commission may initiate or assist programs on a reservation  
 43 only upon the request or with the approval of the tribal council for such  
 44 reservation.

45          F. The commission may publish an annual directory of tribal  
 46 governments in this state and other tribal and Indian related organizations

1 and entities. The commission shall charge a fee for nongovernmental  
 2 distribution of the directory and other commission publications based on the  
 3 costs of compiling, publishing and distributing the directory and other  
 4 commission publications.

5 Sec. 4. Section 41-545, Arizona Revised Statutes, is amended to read:

6 41-545. Arizona Indian town hall fund; report

7 A. An Arizona Indian town hall fund is established that consists of  
 8 monies collected or received at Indian town halls ~~as fees that are intended~~  
 9 ~~to defray administrative costs related to these town halls~~ AND FROM PUBLIC  
 10 AND PRIVATE GIFTS OR GRANTS OF MONEY OR PROPERTY TO BE USED pursuant to  
 11 section 41-541. The commission shall deposit, pursuant to sections 35-146  
 12 and 35-147, all ~~fees~~ MONIES collected ~~from this activity~~ PURSUANT TO THIS  
 13 SECTION in ~~this~~ THE fund.

14 B. The commission shall annually report to the joint legislative  
 15 budget committee ~~for~~ ON its use of the monies in the fund. ~~Up to fifteen~~  
 16 ~~thousand dollars of monies in the fund may be expended by the commission each~~  
 17 ~~fiscal year.~~

18 Sec. 5. Section 41-823, Arizona Revised Statutes, is amended to read:

19 41-823. Purposes of society; housing of society collection;  
 20 financial provisions

21 A. The society shall procure, by gift, exchange or purchase:

22 1. Books, maps, papers and materials pertaining to the history of  
 23 Arizona and the west.

24 2. Narratives of historical events of the exploration and early  
 25 settlement of Arizona, and of overland travel in the state and the west.

26 3. Data relating to Indian tribes, and portraying the antiquities, the  
 27 past and present conditions and progress of the state.

28 4. Historical and scientific reports of the western states, and  
 29 materials and facilities for investigation of historical, scientific, social,  
 30 educational and literary subjects.

31 B. The collections and materials shall be housed suitably for  
 32 protection, preservation and availability, properly catalogued and kept  
 33 accessible to the public, ~~without charge,~~ during reasonable hours on business  
 34 days AND THE SOCIETY MAY CHARGE A FEE FOR THESE SERVICES.

35 C. For the purpose of effectuating the functions prescribed in  
 36 subsections A and B OF THIS SECTION, the society may borrow money with which  
 37 to erect or procure needed buildings and equipment, but authorization to  
 38 borrow money shall not exceed in the aggregate the sum of seventy-five  
 39 thousand dollars for the purpose of erecting and procuring needed buildings  
 40 and equipment. The society may issue negotiable promissory notes and  
 41 necessary renewal notes as evidence of the money so borrowed. The notes  
 42 shall be authorized by resolution of the board of directors of the society,  
 43 may mature at such times not exceeding three years from the respective dates  
 44 thereof, may bear interest at not to exceed five per cent per annum, payable  
 45 semiannually, and may be payable at such times and in such partial sums as  
 46 the resolution provides.



1 D. Money borrowed under the provisions of this section shall be  
2 deposited, pursuant to sections 35-146 and 35-147, in the Arizona historical  
3 society building fund and disbursed in satisfaction of approved claims  
4 arising under the contract or contracts for construction and equipment of the  
5 building.

6 E. Notes issued pursuant to this section shall be payable only in  
7 accordance with the terms thereof and shall not be obligations, general,  
8 special or otherwise, of the state. The notes shall not constitute a debt,  
9 legal or moral, of the state and shall not be enforceable against the state.

10 Sec. 6. Department of insurance; fee and assessment adjustment  
11 suspension

12 Notwithstanding section 20-167, subsection F, Arizona Revised Statutes,  
13 and section 20-466, subsection J, Arizona Revised Statutes, the director of  
14 insurance shall not revise fees or assessments in fiscal year 2005-2006 and  
15 fiscal year 2006-2007 for the purposes of meeting the requirement to recover  
16 at least ninety-five per cent but not more than one hundred ten per cent of  
17 the department of insurance's appropriated budget.

18 Sec. 7. State real estate department; fee adjustment;  
19 suspension

20 Notwithstanding section 32-2103, subsection B, Arizona Revised  
21 Statutes, the state real estate commissioner shall not revise fees in fiscal  
22 year 2005-2006 and fiscal year 2006-2007 for the purposes of meeting the  
23 requirement to recover at least ninety-five per cent but not more than one  
24 hundred ten per cent of the state real estate department's appropriated  
25 budget.